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TREATY WITH MEXICO ON DELIMITATION OF THE CONTINENTAL SHELF

SEPTEMBER 29, 2000.—Ordered to be printed

Mr. HELMS, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Doc. 106–39]

The Committee on Foreign Relations, to which was referred the Treaty Between the Government of the United States of America and the Government of the United Mexican States on the Delimitation of the Continental Shelf in the Western Gulf of Mexico Beyond 200 Nautical Miles, signed at Washington on June 9, 2000 (Treaty Doc. 106–39) having considered the same, reports favorably thereon with the declaration and proviso indicated in Section VII, and recommends that the Senate give its advice and consent to the ratification thereof as set forth in this report and the accompanying resolution of ratification.

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I. PURPOSE

The treaty addresses the delineation of the Continental Shelf boundary in the Gulf of Mexico between the United States and Mexico.

II. BACKGROUND

The proposed treaty was preceded by two related agreements. Under the Treaty to Resolve Pending Boundary Differences and to

Maintain the Rio Grande and Colorado River as the International Boundary (23 UST 371; TIAS 7313 (1972)), a maritime boundary was established, inter alia, in the western Gulf of Mexico extending approximately 12 nautical miles into the Gulf from the land boundary separating Mexico and Texas (the mouth of the Rio Grande River). That treaty entered into force in 1972.

Mexico then claimed an exclusive economic zone, and the United States a fisheries management zone, extending 200 nautical miles from their shores. These zones overlapped in parts of the Gulf. Consequently, the U.S. and Mexico negotiated provisional boundaries in 1976 and, finding them to be satisfactory, incorporated them into a 1978 "Treaty on Maritime Boundaries between the United States of America and the United Mexican States" ("1978 Treaty").

The 1978 treaty established a further delineation of the maritime boundaries between Mexico and the United States extending from the end of the previous boundary line to 200 miles into the western part of the Gulf of Mexico. The treaty also established a boundary line in the eastern part of the Gulf of Mexico where the zones overlapped, by virtue of each country's claim measured from Louisiana for the United States, and from several Mexican islands off the coast of Yucatan for Mexico.

Although the 1978 Treaty was favorably reported by the Senate Committee on Foreign Relations in 1980 (S. Exec. Rept. No. 96–49, 96th Cong., 2d Sess. (August 5, 1980)), its approval by the full Senate was delayed by differences over the oil and gas potential of the area ceded to Mexico. The 1978 Treaty was eventually ratified, however, in 1997.

Between the western and eastern boundaries established by the 1978 Treaty there remained a substantial deep sea area of the Gulf (about 135 miles long and comprising approximately 6600 square miles) that lay beyond either of the claimed zones—the so-called "Western Gap."

The Clinton Administration expressed its intent to enter into negotiations with Mexico to delimit the continental shelf in the Western Gap once the 1978 Treaty was ratified. The 1997 report of the Committee on Foreign Relations on the 1978 Treaty supported commencement of negotiations, stating:

> Delimitation of the western gap has become increasingly important to U.S. interests as petroleum exploration has moved into deeper waters. The Department of Interior is now receiving bids for exploration in this area. Several new drilling vessels capable of operating in water depths of up to 10,000 feet are under construction * * *. The Committee urges the Executive Branch to commence negotiations on the western gap without delay, once this treaty enters into force (S. Exec. Rept. 105–4, 105th Cong., 1st Sess., at 5–6 (Oct. 22, 1997)).

The proposed treaty discussed in this report is the product of those negotiations.

III. Summary

A. GENERAL

The proposed treaty would establish a boundary between the two countries on the continental shelf of the Western Gap. Treaty Doc. 106–39 sets forth an illustrative diagram of the affected area and coordinates. The waters above this area are, and will remain, international waters.

The treaty is intended to clarify each country's right to exploit the resources of the seabed and subsoil in the affected region, particularly the oil and gas resources that may be there. The treaty would also provide a means for resolving conflicting claims to oil and gas deposits that may extend across the boundary ("transboundary reservoirs"). The division allocates approximately 4100 square miles (62%) of the Western Gap to Mexico and 2536 square miles (38%) to the United States.

B. KEY PROVISIONS

Articles I and II of the proposed treaty define the boundary line by means of geodetic lines between specified coordinates.

Article III bars the United States from exercising any sovereign rights or jurisdiction over the seabed and subsoil south of that line, and Mexico from doing so north of that line.

Article IV defines an area extending 1.4 nautical miles on either side of the boundary line ("the Area"), and prohibits drilling or other exploitation in the Area for a period of ten years (or such other period as the Parties agree to). It also mandates cooperation between the two countries in determining the existence and location of transboundary reservoirs in the Area.

Article V requires the Parties, during the period of the moratorium on exploitation in the Area, to "seek to reach agreement for the efficient and equitable exploitation of such transboundary reservoirs."

Article V further requires each Party, after the expiration of the moratorium, to inform the other of decisions to authorize exploration, development, and production in the Area.

Article VI requires each Party to honor requests from the other for consultations on the interpretation and implementation of the treaty.

Article VII contains standard language to the effect that the boundary established by this treaty does not prejudice or affect either Party's claims regarding its internal waters, the territorial sea, the high seas, or for any other purpose.

Article VIII mandates that disputes over the treaty be resolved by negotiation or other peaceful means.

IV. Entry into Force and Denunciation

A. ENTRY INTO FORCE

Pursuant to Article IX, the proposed treaty will enter into force on the date of the exchange of instruments of ratification.

B. TERMINATION

The proposed treaty contains no termination provision.

V. COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the proposed treaty on September 13, 2000, (a transcript of the hearing and questions for the record can be found in Senate hearing 106–660 entitled "Consideration of Pending Treaties"). The Committee considered the proposed treaty on September 27, 2000, and ordered it favorably reported by voice vote, with the recommendation that the Senate give its advice and consent to the ratification of the proposed treaty subject to the declaration and proviso noted below.

VI. COMMITTEE RECOMMENDATION AND COMMENTS

The Committee on Foreign Relations recommends favorably the proposed treaty. On balance, the Committee believes that the proposed treaty is in the interest of the United States and urges the Senate to act promptly to give its advice and consent to ratification.

VII. TEXT OF THE RESOLUTION OF RATIFICATION

Resolved, (two thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the Government of the United States of America and the Government of the United Mexican States on the Delimitation of the Continental Shelf in the Western Gulf of Mexico beyond 200 Nautical Miles, signed at Washington on June 9, 2000 (Treaty Doc. 106–39), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding upon the President:

> TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification:

> SUPREMACY OF THE CONSTITUTION.—Nothing in this Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

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